

payments during the course of the reorganization plan. The estimated loss claim, as well as any revisions to this claim, will be accompanied by documentation to support the claim.

(iii) Upon completion of a reorganization plan, the lender will complete a Form FmHA 1980-44 and forward this form to the Finance Office.

(2) *Interest loss payments.* (i) Interest losses sustained during the period of the reorganization plan will be processed in accordance with paragraph (b)(1) of this section.

(ii) Interest losses sustained after the reorganization plan is completed will be processed annually when the lender sustains a loss as a result of a permanent interest rate reduction which extends beyond the period of the reorganization plan.

(iii) If an estimated loss claim is paid during the operation of the Chapter 11 reorganization plan and the borrower repays in full the remaining balance without an additional loss sustained by the lender, a final report of loss is not necessary.

(3) *Final loss payments.* Final loss payments will be processed when the loan is liquidated.

(4) *Payment application.* The lender must apply estimated loss payments first to the unsecured principal of the guaranteed portion of the debt and then to the unsecured interest of the guaranteed portion of the debt. In the event a bankruptcy court attempts to direct the payments to be applied in a different manner, the lender will immediately notify the Agency servicing office.

(5) *Overpayments.* Upon completion of the reorganization plan, the lender will provide the Agency with the documentation necessary to determine whether the estimated loss paid equals the actual loss sustained. If the actual loss sustained as a result of the reorganization is less than the estimated loss, the lender will reimburse the Agency for the overpayment plus interest at the note rate from the date of payment of the estimated loss. If the actual loss is greater than the estimated loss payment, the lender will submit a revised estimated loss in order to obtain payment of the additional amount owed by the Agency to the lender.

(6) *Protective advances.* If approved protective advances were made prior to the borrower having filed bankruptcy, these protective advances and accrued interest will be considered in the loss calculations.

(c) *Legal expenses during bankruptcy proceedings.* (1) When a bankruptcy proceeding results in a liquidation of the borrower by a trustee, legal expenses will be handled as directed by the court.

(2) Chapter 11 pertains to a reorganization of a business contemplating an ongoing business rather than a termination and dissolution of the business where legal protection is afforded to the business as defined under Chapter 11 of the Bankruptcy Code. Consequently, expenses incurred by the lender in a Chapter 11 reorganization can never be liquidation expenses unless the proceeding becomes a Chapter 11 liquidation. If the proceeding should become a Liquidating 11, reasonable and customary liquidation expenses may be deducted from proceeds of collateral as provided in the Lender's Agreement. Chapter 7 pertains to a liquidation of the borrower's assets. If, and when, liquidation of the borrower's assets under Chapter 7 is conducted by the bankruptcy trustee, then the lender cannot claim expenses.

§§ 4287.171–4287.179 [Reserved]

§ 4287.180 Termination of guarantee.

A guarantee under this part will terminate automatically:

- (a) Upon full payment of the guaranteed loan;
- (b) Upon full payment of any loss obligation; or

(c) Upon written notice from the lender to the Agency that the guarantee will terminate 30 days after the date of notice, provided that the lender holds all of the guaranteed portion and the Loan Note Guarantee is returned to the Agency to be canceled.

§§ 4287.181–4287.199 [Reserved]

§ 4287.200 OMB control number.

The information collection requirements contained in this regulation have been approved by OMB and have been assigned OMB control number

Pt. 4290

7 CFR Ch. XLII (1–1–05 Edition)

0575–0168. Public reporting burden for this collection of information is estimated to vary from 15 minutes to 8 hours per response, with an average of 4 hours per response, including time for reviewing the collection of information. Send comments regarding this burden, estimate or any other aspect of this collection of information, including suggestions for reducing this burden to the Department of Agriculture, Clearance Officer, OIRM, Stop 7630, Washington, DC 20250. You are not required to respond to this collection of information unless it displays a currently valid OMB control number.

PART 4290—RURAL BUSINESS INVESTMENT COMPANY (“RBIC”) PROGRAM

Subpart A—Introduction to Part 4290

Sec.

- 4290.10 Description of the Rural Business Investment Company Program.
- 4290.20 Legal basis and applicability of this part 4290.
- 4290.30 Amendments to Act and regulations.
- 4290.40 How to read this part 4290.
- 4290.45 Responsibility for implementing this part 4290.

Subpart B—Definition of Terms Used in Part 4290

- 4290.50 Definition of terms.

Subpart C—Qualifications for the RBIC Program

ORGANIZING A RBIC

- 4290.100 Business form.
- 4290.110 Qualified management.
- 4290.120 Plan to invest in Rural Areas.
- 4290.130 Identified Rural Areas.
- 4290.140 Approval of initial Management Expenses.
- 4290.150 Management and ownership diversity requirement.
- 4290.160 Special rules for Partnership RBICs and LLC RBICs.
- 4290.165 Obligations of Control Persons.

CAPITALIZING A RBIC

- 4290.200 Adequate capital for RBICs.
- 4290.210 Minimum capital requirements for RBICs.
- 4290.230 Private Capital for RBICs.
- 4290.240 Limitations on non-cash capital contributions in Private Capital.

Subpart D—Application and Approval Process for RBIC Licensing

- 4290.300 When and how to apply for a RBIC License.
- 4290.310 Contents of application.
- 4290.320 Contents of comprehensive business plan.
- 4290.330 Grant issuance fee.

Subpart E—Evaluation and Selection of RBICs

- 4290.340 Evaluation and selection—general.
- 4290.350 Eligibility and completeness.
- 4290.360 Initial review of Applicant’s management team’s qualifications.
- 4290.370 Evaluation criteria.
- 4290.380 Selection.
- 4290.390 Licensing as a RBIC.

Subpart F—Changes in Ownership, Structure, or Control

CHANGES IN CONTROL OR OWNERSHIP OF A RBIC

- 4290.400 Changes in ownership of 10 percent or more of RBIC but no change of Control.
- 4290.410 Changes in Control of RBIC (through change in ownership or otherwise).
- 4290.420 Prohibition on exercise of ownership or Control rights in RBIC before approval.
- 4290.430 Notification of transactions that may change ownership or Control.
- 4290.440 Standards governing prior approval for a proposed transfer of Control.
- 4290.450 Notification of pledge of RBIC’s shares.

RESTRICTIONS ON COMMON CONTROL OR OWNERSHIP OF TWO OR MORE RBICs

- 4290.460 Restrictions on Common Control or ownership of two (or more) RBICs.

Change in Structure of RBIC

- 4290.470 Prior approval of merger, consolidation, or reorganization of RBIC.
- 4290.480 Prior approval of changes to RBIC’s business plan.

Subpart G—Managing the Operations of a RBIC

GENERAL REQUIREMENTS

- 4290.500 Lawful operations under the Act.
- 4290.502 Representations to the public.
- 4290.503 RBIC’s adoption of an approved valuation policy.
- 4290.504 Equipment and office requirements.
- 4290.506 Safeguarding the RBIC’s assets/Internal controls.